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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA
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10 UNITED STATES OF AMERICA,

3:95-CV-00757-HDM

11 Plaintiff,

12 and

ORDER ON MOTION TO STRIKE

13 PYRAMID LAKE PAIUTE TRIBE OF
14 INDIANS,

15 Intervenor-Plaintiff,

16 v.

17 BOARD OF DIRECTORS OF THE
18 TRUCKEE-CARSON IRRIGATION
19 DISTRICT, individually and as
20 Representatives of the Class of
all Water Users in the Newlands
Reclamation Project; TRUCKEE-
CARSON IRRIGATION DISTRICT,

21 Defendants,

22 and

23 STATE OF NEVADA, Department of
Conservation and Natural
24 Resources, Division of Wildlife
and Division of State Lands;
CHURCHILL COUNTY; DODGE
25 BROTHERS AND DOGE JR. FAMILY
TRUST; DAVID P. HARRIGAN;
26 GEORGE AND SHELLY RAE
RAKURSHIN; WILLIAM D. AND
27 GWENDOLYN WASHBURN; MARVIN
WEISHAUP; HOWARD D. WOLF
28 FAMILY TRUST; RAY CONLAN;

1 CORKILL BROS., INC.; CALVIN R.
2 MOFFITT AND CANDACE J. MOFFITT;
3 BELL FAMILY TRUST; LARRY L.
4 FRITZ FAMILY TRUST; DAVID L.
5 MATLEY AND CHRISTINE L. MATLEY
6 FAMILY TRUST AND DAVID MATLEY;
7 HAROLD G. AND RHONDA JOHNSON
8 AND JOHNSON FAMILY TRUST; A&A
9 DAIRY; JOYCE LOHR; PERALDO
10 BROTHERS; STILLWATER FARMS,
11 INC.; CHARLES P. FREY, JR. AND
12 DEBRA S. FREY; NORMAN W. FREY;
13 FALLON-PAIUTE SHOSHONE TRIBE,

14 Intervenor-Defendants.
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16 The Truckee-Carson Irrigation District ("TCID") has filed a
17 motion to strike (#873) the declaration of Ali Shahroody, attached
18 to the government's brief in response to the court's order of May
19 11, 2015 (#870-1), as well as any parts of the government's brief
20 that rely thereon. The government and the Pyramid Lake Paiute
21 Tribe oppose the motion (#877), and TCID has replied (#879).

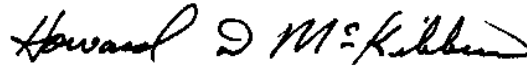
22 Shahroody's declaration is not evidence that was before this
23 court during trial. The declaration relies on and discusses
24 evidence that was admitted only for limited rebuttal purposes and
25 proffers a calculation of the amounts subject to recoupment for
26 1985 and 1986 based on a methodology that has never been accepted
27 by this court. As the court found in striking the declaration of
28 Walter Winder, offered by TCID in the first set of briefs on
remand, the court has not reopened the record for additional
evidence. The determination as to how much recoupment, if any, is
available for the designated time periods in 1985 and 1986 should
be made on the basis of evidence presented during the government's
case-in-chief. For that reason, TCID's motion to strike the

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1 declaration of Ali Shahroody (#873) is hereby **GRANTED**.

2 **IT IS SO ORDERED.**

3 DATED: This 25th day of January, 2016.

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6 UNITED STATES DISTRICT JUDGE
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